



~~February 20, 2007 CPC~~  
~~May 15, 2007 CPC~~  
~~July 17, 2007 CPC~~  
~~August 21, 2007 CPC~~  
September 18, 2007 CPC

STAFF'S  
REQUEST ANALYSIS  
AND  
RECOMMENDATION

07SN0157  
(AMENDED)

Otterdale Venture, LLC

Matoaca Magisterial District  
Grange Hall Elementary; Swift Creek Middle; and Cosby High Schools Attendance Zones  
North line of Hull Street Road

REQUEST: (AMENDED) Rezoning from Agricultural (A) and General Business (C-5) to Community Business (C-3) of 107 acres with Conditional Use to permit multifamily residential use and an above-ground utility structure (water storage tank) and to Residential Townhouse (R-TH) of seventy-one (71) acres plus Conditional Use Planned Development to permit exceptions to Ordinance requirements.

PROPOSED LAND USE:

A mix of commercial and residential uses is proposed. A maximum of 642 residential units, to include multifamily, townhome and cluster residential is planned (Proffered Conditions 9 and 15). Commercial development could yield a density of approximately 900,000 gross square feet.

**(NOTE: IN ORDER FOR THE PLANNING COMMISSION TO CONSIDER THIS REQUEST AT THEIR MEETING, A \$230.00 DEFERRAL FEE MUST BE PAID PRIOR TO THE PUBLIC HEARING.)**

RECOMMENDATION

Revised proffered conditions were submitted on September 5, 2007 (reference attachment). Staff has not had adequate time to review these revisions. Based upon the proffered conditions previously submitted on June 15, 2007 and listed herein, staff is recommending denial for the following reasons:

- A. The proposed commercial and residential uses south of the creek do not conform to the Upper Swift Creek Plan which suggests the property is appropriate for community-scale office and commercial uses, with integrated townhouse or multifamily residential uses. Specifically, the proposed development densities are of a regional-scale, significantly exceeding those recommended for community-scale development, as suggested by the Plan.
- B. The proposed commercial uses north of the creek do not conform to the Upper Swift Creek Plan which suggests the property is appropriate for residential development at a density of two (2) dwelling units or less per acre.
- C. Proffered conditions are insufficient in addressing the traffic impact of this request, as discussed herein.

- (NOTES:
- A. CONDITIONS MAY BE IMPOSED ON THE R-TH PORTION OF THE REQUEST AS WELL AS THE MULTIFAMILY RESIDENTIAL AND ABOVE-GROUND UTILITY STRUCTURE USES. THE ONLY CONDITION THAT MAY BE IMPOSED ON THE C-3 PORTION OF THE REQUEST IS A BUFFER CONDITION. THE PROPERTY OWNER(S) MAY PROFFER OTHER CONDITIONS ON ALL OR PART OF THE REQUEST.
  - B. IT SHOULD BE NOTED THAT AMENDMENTS TO THE PROFFERED CONDITIONS WERE NOT RECEIVED AT LEAST THIRTY (30) DAYS PRIOR TO THE COMMISSION'S PUBLIC HEARING PER THE "SUGGESTED PRACTICES AND PROCEDURES". THE "PROCEDURES" SUGGEST THAT THE CASE SHOULD BE DEFERRED IF REPRESENTATIVES FROM THE AFFECTED NEIGHBORHOOD(S), STAFF AND THE COMMISSIONERS HAVE NOT HAD SUFFICIENT TIME TO EVALUATE THE AMENDMENTS. STAFF **HAS NOT** HAD AN OPPORTUNITY TO THOROUGHLY REVIEW THESE AMENDMENTS, AS ATTACHED.)

## PROFFERED CONDITIONS

### APPLICABLE TO ALL

- 1. Utilities. The public water and wastewater systems shall be utilized. (U)
- 2. Timbering. Except for the timbering approved by the Virginia State Department of Forestry for the purpose of removing dead or diseased trees, there shall be no timbering on the Property until a land disturbance permit has been obtained from the Environmental Engineering Department and the approved devices have been installed. (EE)

3. Age Restriction. Except as otherwise prohibited by the Virginia Fair Housing Law, the Federal Fair Housing Act, and such other applicable federal, state or local legal requirements, dwelling units designed as age-restricted shall be restricted to “housing for older persons” as defined in the Virginia Fair Housing Law and no persons under 19 years of age shall reside therein. Any lots for age-restricted dwelling units shall be grouped together on a particular portion of the Property and shall not be scattered among other residential units. At the time of recordation of a subdivision plat or the approval of any site plan, the lots shall be noted as age-restricted. Any site plan for age-restricted dwelling units shall also note the restriction. To the extent a subdivision plat is not required, the age restriction shall be recorded as a restrictive covenant prior to site plan approval. (B&M)
4. Water Storage Tank. The Developer shall dedicate to the County, within one hundred eighty (180) calendar days of a written request by the County or prior to receiving site plan approval, whichever occurs first, a three (3.0) acre site for a future water storage tank. The site shall be in a location acceptable to the Utilities Department, but generally in the southwest corner area of the request site, adjacent to parcels Tax ID 709-669-5927 and Tax ID 710-669-5200, have direct permanent public road access via the internal road network for the development. The Developer shall also dedicate a temporary ingress/egress easement adjacent to the northern property line of parcel Tax ID 710-669-5200, and adjacent to the northern and eastern property line of parcel Tax ID 711-669-2024 or at such other location as is mutually acceptable to the Developer and the County, for use by the County should the County proceed with construction of a water tank prior to completion of the internal road network for the development. At such time as the permanent access is established, the temporary ingress/egress easement will be vacated. (U)
5. Water Lines. The Developer shall be responsible for the construction of the following water lines, unless said water lines are completed by others prior to issuance of the first building permit for the request site:
  - a. a twenty-four (24) inch water line along Hull Street Road, from Fox Club Parkway to Otterdale Road;
  - b. a thirty (30) inch water line along Hull Street Road, from Otterdale Road to the westernmost extent of the request site’s frontage on Hull Street Road; and
  - c. a sixteen (16) inch water line along Otterdale Road, from Hull Street Road to Foxcreek Crossing. (U)
6. On-Site Wastewater Plan. Prior to approval of the first tentative subdivision or site plan for the request site, the Developer shall submit to the Utilities Department a plan for the on-site wastewater collection system for the request site

identifying future easements and access points for all properties bordering the southern and western boundaries of the request site. (U)

7. Culverts. Storm water shall be retained on site and/or the capacity of the drainage culverts under Otterdale Road shall be increased (unless provided by others) so that Otterdale Road does not flood in a 10 year storm event with full development. (EE)
8. Transportation.
  - a. To the extent not provided by others, the developer shall be responsible for:
    - i. the construction of dual southbound left and separate southbound right turn lanes on Otterdale Road at Route 360, based on Transportation Department standards;
    - ii. the construction of a northbound right turn lane onto Otterdale Road at Woolridge Road, based on Transportation Department standards;
    - iii. the construction of northbound left turn and southbound right turn lanes on Otterdale Road at the two site entrances, based on Transportation Department standards;
    - iv. the construction of dual eastbound left turn lanes on Route 360 at the site entrance, based on Transportation Department standards;
    - v. the full cost of traffic signalization, if warranted as determined by the Transportation Department, of the
      1. Route 360/Otterdale Road intersection;
      2. Route 360 and the site entrance; and
      3. Otterdale Road and north site entrance.
    - vi. dedication, free and unrestricted to and for the benefit of Chesterfield County, of any additional right-of-way (or easements) required to construct these improvements. In the event the developer is unable to acquire the “off-site” right-of-way that is necessary for the road improvements described in this Proffered Condition, the developer may request, in writing, that the County acquire such right-of-way as a public road improvement. All costs associated with the acquisition of the right-of-way shall be borne by the developer. In the event the County chooses not to assist the developer in acquisition of the “off-site” right-of-way, the developer shall be relieved of the obligation to acquire the “off-

site” right-of-way and shall provide the road improvements within available right-of-way as determined by the Transportation Department.

- b. Prior to any construction plan approval, a phasing plan for the improvements identified in Proffered Condition 8 shall be submitted to and approved by the Transportation Department. (T)

#### APPLICABLE TO PARCEL A

- 9. Density. The aggregate density on Parcel A shall not exceed five hundred (500) dwelling units. (P)
- 10. Schematic Plan. A schematic plan shall be submitted for Parcel A if a mixture of residential and non-residential uses is proposed. (P)
- 11. Dwelling Unit.
  - a. Any dwelling units located on Parcel A shall be age-restricted.
  - b. Any multifamily dwelling units developed on Parcel A shall be developed in accordance with the requirements of the Zoning Ordinance for Residential Multifamily (R-MF) except as follows:
    - i. The minimum parcel size shall be ten (10) acres. The development’s density shall not exceed twenty (20) dwelling units per gross acre.
    - ii. There shall be no limitation on the number of dwelling units permitted on any one floor level of a building.
    - iii. No minimum recreation area is required; however, amenities such as benches, gazebos, fountains, pocket parks and walking trails shall be provided. (P)
- 12. Cash Proffers. The applicant, subdivider, or assignee(s) shall pay the following to the County of Chesterfield, prior to the issuance of a building permit, for infrastructure improvements within the service district for the Property, \$10,269.00 per dwelling unit, if paid prior to July 1, 2007, or the amount approved by the Board of Supervisors, not to exceed \$10,269.00 per dwelling unit as adjusted upward by any increase in the Marshall and Swift Building Cost Index between July 1, 2006 and July 1 of the fiscal year in which the payment is made if paid after June 30, 2007. At the time of payment, the \$10,269.00 will be allocated pro-rata among the facility costs as follows: \$602.00 for parks and recreation, \$348.00 for library facilities, \$8,915 for roads, and \$404 for fire stations. Payments in excess of \$10,269.00 shall be prorated as set forth above.

If, upon the mutual agreement of the Transportation Department and the developer, the developer provides road improvements (the “Improvements”), other than those road improvements identified in Proffered Condition 8, then the transportation component in this Proffered Condition shall be reduced by an amount not to exceed the cost to construct the Improvements as determined by the Transportation Department. Thereafter, the developer shall pay the balance of the transportation component as set forth in this Proffered Condition. For the purposes of this Proffered Condition, the costs, as approved by the Transportation Department, shall include, but not be limited to, the cost of right-of-way acquisition, engineering costs, costs of relocating utilities and actual costs of construction (including labor, materials, and overhead) (“Work”). Before any Work is performed, the applicant shall receive prior written approval by the Transportation Department for any credit.

Cash proffer payments shall be spent for the purposes proffered or as otherwise permitted by law.

Should Chesterfield County impose impact fees at any time during the life of the development that are applicable to the property, the amount paid in cash proffers shall be in lieu of or credited toward, but not in addition to, any impact fees, in a manner as determined by the county. (B & M)

#### APPLICABLE TO PARCELS B AND C

13. Master Plan. The Textual Statement dated June 15, 2007, shall be the Master Plan. (P)
14. Public Roads. All roads that accommodate general traffic circulation through the residential development, as determined by the Transportation Department, shall be designed and constructed to VDOT standards and taken into the State System. (T)
15. Overall Density. The aggregate density on the Property developed for residential purposes shall not exceed two (2) units per gross acre. (P)
16. Cash Proffers. The applicant, subdivider, or assignee(s) shall pay the following to the County of Chesterfield, prior to the issuance of a building permit, for infrastructure improvements within the service district for the Property:
  - a. \$15,600 per dwelling unit, if paid prior to July 1, 2007; or the amount approved by the Board of Supervisors not to exceed \$15,600 per dwelling unit adjusted upward by any increase in the Marshall and Swift Building Cost Index between July 1, 2006 and July 1 of the fiscal year in which the payment is made if paid after June 30, 2007.
  - b. Provided, however, that if any building permits issued on the property are for senior housing as defined in the proffer on age-restriction, the applicant, sub-divider, or assignee(s) shall pay, \$10,269.00 per dwelling

unit if paid prior to July 1, 2007, or the amount approved by the Board of Supervisors, not to exceed \$10,269.00 per dwelling unit as adjusted upward by any increase in the Marshall and Swift Building Cost Index between July 1, 2006 and July 1 of the fiscal year in which the payment is made if paid after June 30, 2007. At the time of payment, the \$10,269.00 will be allocated pro-rata among the facility costs as follows: \$602.00 for parks and recreation, \$348.00 for library facilities, \$8,915.00 for roads, and \$404 for fire stations. Payments in excess of \$10,269.00 shall be prorated as set forth above.

- c. If, upon the mutual agreement of the Transportation Department and the developer, the developer provides the Improvements, other than those road improvements identified in Proffered Condition 8, then the transportation component in this Proffered Condition shall be reduced by an amount not to exceed the cost to construct the Improvements as determined by the Transportation Department. Thereafter, the developer shall pay the balance of the transportation component as set forth in this Proffered Condition. For the purposes of this Proffered Condition, the costs, as approved by the Transportation Department, shall include, but not be limited to, the cost of the Work. Before any Work is performed, the applicant shall receive prior written approval by the Transportation Department for any credit. (B & M)

Cash proffer payments shall be spent for the purposes proffered or as otherwise permitted by law.

Should Chesterfield County impose impact fees at any time during the life of the development that are applicable to the property, the amount paid in cash proffers shall be in lieu of or credited toward, but not in addition to, any impact fees, in a manner as determined by the county. (B&M)

### GENERAL INFORMATION

#### Location:

North line of Hull Street Road, west line of Otterdale Road, and located in the northwest quadrant of the intersection of these roads. Tax ID 710-670-5596.

#### Existing Zoning:

A and C-5

#### Size:

178.0 acres

Existing Land Use:

Vacant

Adjacent Zoning and Land Use:

North – A; Single family residential or vacant

South – C-3 and I-1 with Conditional Use Planned Development, and A; Single family residential or vacant

East - R-12, R-MF, and C-3; Single family residential or vacant

West - I-1 and R-9 with Conditional Use Planned Development, and A; Vacant

UTILITIES

Public Water System:

There is an existing twenty-four (24) inch water line located along the north side of Hull Street Road which presently terminates at Fox Club Parkway, approximately 2,800 feet east of the request site. A twelve (12) inch water line is under construction along Fox Creek Crossing as part of the Fox Creek development, and when completed, will terminate adjacent to the northern boundary of the request site. The use of the public water system is recommended (Proffered Condition 1). The County's Water and Wastewater Facilities Plan calls for the extension of the twenty-four (24) inch water line along Hull Street Road to Otterdale Road. From Otterdale Road that water line will continue west, but it will increase to thirty (30) inches. The Water and Wastewater Facilities Plan also calls for the extension of a sixteen (16) inch water line along Otterdale Road. The applicant has proffered to construct the twenty-four (24) water line along Hull Street Road to Otterdale Road, the thirty (30) inch water line from Otterdale Road approximately 1,500 feet west, and the sixteen (16) inch water line along Otterdale Road from Hull Street Road to Fox Creek Crossing unless those water lines have been constructed by others prior to issuance of the first building permit for the request site. (Proffered Condition 5)

The Utilities Department has analyzed future water demand requirements for the western Hull Street Road corridor, and has determined that two water storage tanks will be needed in this area. The existing topography of the immediate area suggests that a site within the request site would be a suitable location for one of these tanks. The applicant has proffered the dedication of a 3.0 acre site adjacent to the southwest corner of the request site, and to grant temporary access to the site should the County proceed with construction of the water tank prior to completion of the internal road network for the request site (Proffered Condition 4). The use of an elevated water tank has been incorporated into the allowable uses under this zoning case.

### Public Wastewater System:

The request site is within the service area of the West Branch Trunk Sewer. This wastewater line currently terminates as an eighteen (18) inch line adjacent to Fox Haven Lane in the Foxcroft subdivision. With development of the Fox Creek subdivision, this wastewater line will be extended as a twelve (12) inch line to Otterdale Road. The use of the public wastewater system is recommended (Proffered Condition 1). Given that this property and several adjacent properties represent the most upstream land within the service area of the West Creek Trunk Sewer, it is extremely important that the on-site wastewater collection system for the request site be designed, and that easements are dedicated to provide direct public wastewater system access to adjacent properties. The applicant has proffered to submit a plan for the on-site wastewater collection system for the request site showing easements and access points for adjacent properties. (Proffered Condition 6)

## ENVIRONMENTAL

### Drainage and Erosion:

The property is the headwaters to West Branch. West Branch is a tributary to Swift Creek Reservoir. There are currently no known on- or off-site erosion problems and there are no known onsite drainage problems, however, the culverts under Otterdale Road appear to be inadequate. The property is adjacent to approximately 3,500 feet of Otterdale Road where several of the pipes are located. Proffered Condition 7 requires that either water be retained on-site or the capacity of the culverts increased, or a combination of the two, so that the road does not flood on a 10 year storm with full development.

Portions of the property are wooded and, as such, should not be timbered without obtaining a land disturbance permit from the Department of Environmental Engineering. This will insure that adequate erosion control measures are in place prior to any land disturbance. (Proffered Condition 2)

### Water Quality:

Currently, the Zoning Ordinance requires the developer to address water quality issues with on-site facilities.

## PUBLIC FACILITIES

The need for fire, school, library, park and transportation facilities in this area is identified in the County's adopted Public Facilities Plan, Thoroughfare Plan and adopted Capital Improvement Program and further detailed by specific departments in the applicable sections of this request analysis. The residential portion of this development will have an impact on these facilities.

### Fire Service:

The Public Facilities Plan indicates that fire and emergency medical service (EMS) calls are expected to increase forty-four (44) to seventy-eight (78) percent by 2022. Six (6) new fire/rescue stations are recommended for construction by 2022 in the Plan. In addition to the six new stations, the Plan also recommends the expansion of five (5) existing stations. Based on 642 dwelling units, this request will generate approximately seventy-three (73) calls for fire and emergency medical service each year. The applicant has addressed the impact on fire and EMS. (Proffered Conditions 12 and 16)

The Clover Hill Fire Station, Company Number 7 and the Manchester Volunteer Rescue Squad currently provide fire protection and emergency medical service. When the property is developed, the number of hydrants, quantity of water needed for fire protection, and access requirements will be evaluated during the plans review process.

### Schools:

Approximately seventy-five (75) (Elementary: 33, Middle: 18 High: 24) students will be generated by the non-age-restricted portion of this development. Currently this site lies in the Grange Hall Elementary School attendance zone: capacity - 851, enrollment – 925; Swift Creek Middle School zone: capacity - 1,027, enrollment - 1,455; and Cosby High School zone: capacity – 1,750, enrollment – 1,212. The enrollment is based on September 29, 2006 and the capacity is as of 2006-2007. This request will have an impact on the elementary and middle schools involved. There are currently four (4) trailers at Grange Hall Elementary and seventeen (17) at Swift Creek Middle.

The new Winterpock Elementary School is scheduled to open this fall and Tomahawk Creek Middle School is scheduled to open in 2008. The new elementary school will provide relief for Grange Hall Elementary and Spring Run Elementary and the new middle school will provide relief for schools in this area of the county. This area of the county continues to experience growth and these schools, will provide much needed space. This case, combined with other tentative residential developments and zoning cases in the zones, would continue to push these schools to capacity. This case could necessitate some form of relief in the future. The applicant has addressed the impact of the development on schools. (Proffered Condition 16)

### Libraries:

Consistent with Board of Supervisors' policy, the impact of development on library services is assessed County-wide. Based on projected population growth, the Public Facilities Plan identifies a need for additional library space throughout the County.

Development of the property noted in this case could affect the Clover Hill Library, a proposed new library in the vicinity of Beach and Winterpock roads, or a proposed new library in the vicinity of the Powhite Parkway and Genito Road. The need for the two (2)

new libraries is identified in the Plan. The applicant has addressed the impact of the development on libraries. (Proffered Conditions 12 and 16)

#### Parks:

The Public Facilities Plan identifies the need for three (3) new regional parks, seven (7) community parks, twenty-nine (29) neighborhood parks and five (5) community centers by 2020. In addition, the Public Facilities Plan identifies the need for ten (10) new or expanded special purpose parks to provide water access or preserve and interpret unique recreational, cultural or environmental resources. The Plan identifies shortfalls in trails and recreational historic sites.

The applicant has offered measures to address the impact of this proposed development on the infrastructure needs of Parks and Recreation. (Proffered Conditions 12 and 16)

#### Transportation:

The majority of the property (178 acres) is zoned Agricultural (A), and the applicant is requesting rezoning to Community Business (C-3) with Conditional Use on seventy-one (71) acres to permit multifamily and townhouse uses. In accordance with the Zoning Ordinance, a traffic analysis is necessary to assist in evaluating the impact of a development of this magnitude. The applicant submitted a traffic impact analysis (TIA), based on an approved Scope of Study, on August 22, 2007. Staff is currently reviewing that information. The TIA assumes a proposed development of 900,000 square feet of shopping center and 130 single-family units, which could generate approximately 29,650 average daily trips (approximately 690 of these trips will occur in the morning peak hour and approximately 2,810 trips will occur in the evening peak hour).

The amount of retail that is planned for the property is comparable to Westchester Commons (approximately 869,000 square feet of retail) that is currently being constructed at the Watkins Centre, and the existing Chesterfield Towne Center (consisting of approximately 1,035,000 square feet). This proposed development would not only have a significant impact on the roads adjacent to and in the immediate vicinity of the site, but would also have a dramatic impact on the surrounding area road network. Most of the two lane roads in this part of the county, such as Otterdale Road, Woolridge Road, Duval Road, Baldwin Creek Road, Beach Road and Winterpock Road, have narrow pavement with no shoulders, substandard horizontal and vertical curves, and large trees located close to the edge of pavement. Most of these two-lane roads will need to be reconstructed and some may need to be widened to four lanes. In addition, Hull Street Road (Route 360) will need to be widened to six and possibly eight lanes. It is very questionable that traffic generated by a development of this size on the property could be accommodated, especially at the intersection of Hull Street Road and Otterdale Road, which will probably function at an unacceptable Level of Service.

The Thoroughfare Plan identifies Route 360 and Otterdale Road as major arterials. Route 360 has a recommended right-of-way width of 120 to 200 feet, and Otterdale Road has a

recommended right-of-way width of ninety (90) feet. The Thoroughfare Plan also identifies a proposed east/west major arterial with a recommended right of way width of ninety (90) feet, extending from Otterdale Road eastward through the property. Rights-of-way should be dedicated in accordance with that Plan.

In June 2007, the applicant submitted transportation related proffers that would require minimal road improvements (turn lanes and traffic signalization). Those proffers are significantly inadequate in addressing the impact of such a large development. The applicant submitted revised transportation proffers on September 5, 2007, which Staff has not reviewed. The Transportation Department cannot support this request.

Financial Impact on Capital Facilities:

		PER UNIT
Potential Number of New Dwelling Units	642*	1.00
Population Increase	1746.24	2.72
Number of New Students		
Elementary	33.09	0.23
Middle	18.46	0.13
High	24.00	0.17
TOTAL	75.54	0.53
Net Cost for Schools	\$3,433,416	\$5,348
Net Cost for Parks	387,768	604
Net Cost for Libraries	224,058	349
Net Cost for Fire Stations	260,010	405
Average Net Cost for Roads	5,740,764	8,942
TOTAL NET COST	\$10,046,016	\$15,648

\* Based on a proffered maximum of 500 age-restricted dwelling units on Parcel A and a proffered maximum of two (2) dwelling units per acre on Parcels B and C (Proffered Conditions 9, 11.a and 15). The actual number of dwelling units and corresponding impact may vary.

As noted, this proposed development will have an impact on capital facilities. Staff has calculated the fiscal impact of every new dwelling unit on schools, roads, parks, libraries, and fire stations at \$15,648 per unit. The applicant has been advised that a maximum proffer of \$15,600 per unit would defray the cost of the capital facilities necessitated by this proposed development. The applicant has been further advised that a maximum proffer of \$10,269 per unit would defray the cost of developing the age-restricted portion of the development, as it would have no increased impact on school facilities. Consistent with the Board of Supervisors' policy, and proffers accepted

from other applicants, the applicant has offered cash and road improvements to assist in defraying the cost of this proposed zoning on such capital facilities. (Proffered Conditions 12 and 16)

Note that circumstances relevant to this case, as presented by the applicant, have been reviewed and it has been determined that it is appropriate to accept the maximum cash proffer in this case.

## LAND USE

### Comprehensive Plan:

Lies within the boundaries of the Upper Swift Creek Plan. The Plan suggests property south of the creek line is appropriate for community-scale office and commercial uses, with integrated townhouse or multifamily residential uses (community mixed use), and that property north of the creek is appropriate for residential use of 2.0 units per acre or less. The Plan is currently being revised. The draft Plan, as recommended by the Planning Department, suggests community-scale office and commercial uses at Hull Street and Otterdale Roads, transitioning north to a mix of office and residential uses of various densities, then residential use of 2.0 units per acre or less for this property.

Community Mixed Use (C-3) areas should generally be located along major arterials at their intersection with other arterials, such as Hull Street and Otterdale Roads. The Plan suggests that such areas be limited to between 175,000 to 350,000 gross square feet of office and commercial space and from fifty (50) to 200 multifamily dwelling units. The applicant's traffic impact analysis indicates the potential for approximately 900,000 gross square feet of commercial uses and the proffered conditions would permit 500 multifamily dwelling units, significantly exceeding the densities for community-scale mixed use developments, as suggested by the Plan. The Plan suggests that these major urban centers should be located at the planned intersections of limited access roads where arterial or collector access exists. One such regional mixed use node exists at Route 288 and Hull Street Road. Another is suggested at Powhite Parkway Extended and Hull Street Road.

### Area Development Trends:

Properties to the north are zoned Agricultural (A) and are occupied by single family dwellings. Properties to the south are zoned Agricultural (A), Community Business (C-3) and Light Industrial (I-1) and are occupied by a single family residence or remain vacant. Properties to the east are zoned R-12, R-MF and C-3 and are developed as the Foxcreek Subdivision or are vacant. Properties to the west are zoned R-9 as part of the Magnolia Green development, I-1 and A and are vacant. It is anticipated that a mixture of residential, office, commercial and light industrial uses will continue in this area around the Otterdale Road intersection, consistent with the Plan.

### Site Design:

The property is proposed for a mix of commercial and residential uses, to include multifamily, cluster and townhouse uses. The property is divided into three (3) development parcels as depicted on the attached exhibit. Uses and development standards for each of these parcels are described herein.

### Uses and Special Development Standards: Specific Parcels:

#### Parcel A:

Parcel A, consisting of approximately 107 acres, is located at the northwest quadrant of Hull Street and Otterdale Roads. Within Parcel A, those uses permitted by right or with restrictions in the Community Business (C-3) District would be permitted. Development of these C-3 uses must comply with the requirements of the Zoning Ordinance for Community Business (C-3) uses in an Emerging Growth District.

In addition, a maximum of 500 age-restricted multifamily dwellings would be permitted within Parcel A. Any multifamily development would comply with the requirements of the Zoning Ordinance for Residential Multifamily (R-MF) Districts, except for minimum parcel size, maximum dwelling units per floor and minimum recreational provisions. (Proffered Conditions 9 and 11)

Should a mix of residential and non-residential uses be developed on Parcel A, schematic plan approval would be required. (Proffered Condition 10)

#### Parcel B:

Parcel B, consisting of approximately sixty-five (65) acres, is located north of the creek line. Within Parcel B, uses are limited to cluster residential and townhouse uses. Should a mix of these residential uses occur, a conceptual plan addressing land use transitions and compatibility would be submitted for Planning Commission or Planning Department review and approval (Textual Statement 9). Density would not exceed two (2) dwelling units per acre, yielding approximately 130 units. (Proffered Condition 15)

Development for townhome uses would comply with the requirements of the Zoning Ordinance for Residential Townhouse (R-TH) development. Development for cluster residential uses would comply with standards identified in the Textual Statement which address lot size, setbacks, sidewalks, buffers, driveways, focal point, garages and street trees. (Textual Statement 1 through 8)

#### Parcel C:

Parcel C, consisting of approximately six (6) acres, is located north of the creek, adjacent to Otterdale Road. Within Parcel C, uses are limited to either 1) cluster

residential and/or townhome or 2) uses permitted by right or with restrictions in the Neighborhood Business (C-2) District. (Textual Statement 10)

Development of Parcel C for cluster residential or townhomes would require the same standards as referenced in Parcel B, yielding an additional twelve (12) dwelling units.

Development of Parcel C for C-2 uses would require compliance with the requirements of the Zoning Ordinance for Neighborhood Business (C-2) Districts within Emerging Growth District Area (Textual Statement 11). These commercial land uses are inconsistent with the recommendations of the Plan and are not supported by staff.

#### Age Restriction:

Proffered Condition 3, in combination with Proffered Conditions 11.a. and 16.b., either require (Parcel A – Multifamily) or provide for the option (Parcels B and C –Cluster and Townhome) of limiting occupancy of the proposed dwelling units to “housing for older persons” as defined in the Virginia Fair Housing Law. While during the initial marketing of the project his restriction may be clear to prospective occupants, there is a risk that long-term, dwelling units may be sold or rented to individuals that do not meet this age-restriction. Given staff’s inability to pro-actively enforce this condition prior to the purchase and occupancy of dwelling units, staff recommends that these proffers not be accepted.

#### CONCLUSION

The proposed commercial and residential uses south of the creek do not conform to the Upper Swift Creek Plan which suggests the property is appropriate for community-scale office and commercial uses, with integrated townhouse or multifamily residential uses. Specifically, the proposed development densities are of a regional-scale, significantly exceeding those recommended for community-scale development, as suggested by the Plan. Further, the proposed commercial uses north of the creek do not conform to the Upper Swift Creek Plan which suggests the property is appropriate for residential development at a density of two (2) dwelling units or less per acre.

Proffered conditions are insufficient in addressing the traffic impact of this request, as discussed herein.

Given these considerations, denial of this request is recommended.

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## CASE HISTORY

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### Planning Commission Meeting (2/20/07):

On motion of Mr. Bass, seconded by Mr. Gulley, the Commission deferred this case to May 15, 2007, sixty (60) days at the applicant's request and thirty (30) days on the Commission's own motion.

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### Staff (2/22/07):

The applicant was advised in writing that any significant, new or revised information should be submitted no later than March 12, 2007, for consideration at the Commission's May public hearing. The applicant was also advised that a \$250.00 deferral fee was due.

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### Applicant (4/16/07):

Revised proffered conditions and textual statement were submitted.

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### Staff (5/14/07):

The deferral fee was paid.

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### Planning Commission Meeting (5/15/07):

On their own motion, the Commission deferred this case to their July 17, 2007, meeting.

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### Staff (5/16/07):

The applicant was advised in writing that any significant, new or revised information should be submitted no later than May 21, 2007, for consideration at the Commission's July public hearing.

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### Applicant (6/18/07):

Revised proffered conditions and textual statement were submitted.

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Planning Commission Meeting (7/17/07):

At the request of the applicant, the Commission deferred this case to their August 21, 2007, meeting.

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Staff (7/18/07):

The applicant was advised in writing that any significant, new or revised information should be submitted no later than July 23, 2007, for consideration at the Commission's August, 2007, public hearing. In addition, the applicant was advised that a \$230.00 deferral fee must be paid prior to the Commission's public hearing.

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Applicant (7/19/07):

The application was amended to include a Conditional Use for an above-ground utility structure (water storage tank).

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Staff (8/1/07):

To date, the deferral fee has not been paid.

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Applicant (8/17/07):

The deferral fee was paid.

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Planning Commission Meeting (8/21/07):

At the request of the applicant, the Commission deferred this case to their September 18, 2007, meeting.

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Staff (8/22/07):

The applicant was advised in writing that any significant, new or revised information should be submitted no later than August 27, 2007, for consideration at the Commission's September 18, 2007, public hearing. In addition, the applicant was advised that a \$230.00 deferral fee must be paid prior to the Commission's public hearing.

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Applicant (8/22/07):

A traffic impact analysis was submitted.

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Applicant (9/5/07):

Revised proffered conditions were submitted.

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Staff (9/12/07):

To date, the deferral fee has not been paid.

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## SECOND AMENDED AND RESTATED TEXTUAL STATEMENT

June 15, 2007

This is a request to rezone approximately 71 acres of the Property (Part of Tax ID 710-670-5596) under consideration to R-TH with a Conditional Use Planned Development (CUPD) that will permit development of a mixed use, planned community including cluster homes. Except as qualified herein, uses permitted in the Residential Townhouse (R-TH) District and active and passive recreation uses shall be permitted throughout the Property. In addition, the following uses as more fully defined below shall also be permitted.

### APPLICABLE TO CLUSTER HOMES

Cluster Homes – Single family detached cluster homes shall meet the following requirements:

1. Lot Size. The minimum lot size shall be as follows: a fifty (50) foot minimum lot width; and a six thousand (6,000) square foot minimum lot area.
2. Front, Corner, Side and Rear Yard. For principal structures, front and rear yards shall have a minimum depth of zero (0) feet, and a minimum depth of ten (10) feet for corner/side yards. Accessory structures shall be setback such that the structure shall not be closer to the front than the front plane of the dwelling.
3. Sidewalks. Sidewalks shall be provided that facilitate pedestrian access within the development, to the recreational areas serving the development, and to the overall project. The exact location and design of the sidewalks shall be determined by the County at the time of tentative subdivision review; provided, however, that, unless otherwise approved by the Planning Commission at time of subdivision review upon a determination that an alternative system will accomplish the spirit and intent of this requirement, sidewalks shall be installed on those portions of both sides of all roads that have cluster homes fronting on the road.
4. Buffers. Buffers required by the Subdivision Ordinance along roads shall be located within recorded open space.
5. Paved Driveways. All dwelling units shall have paved driveways. The exact treatment shall be approved at the time of tentative subdivision plan review.
6. Focal Point. A minimum of 0.75 acres of open space shall be located and positioned to provide a “focal point” as one enters the cluster home development. Part of this area shall be “hardscaped” and have benches and other amenities that accommodate and facilitate outdoor gatherings. This area shall be developed concurrently with the development of the first phase of the cluster home development, and its exact design and location shall be approved at the time of tentative subdivision review.

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7. Garages. Any front-loaded garages shall be located no closer to the street than the front façade of the dwelling unit.
8. Street Trees. Street trees shall be planted or retained along each side of roads and driveways which have sidewalks except for Individual Driveways. The exact spacing, species and size shall be approved at the time of tentative subdivision plan review.

APPLICABLE TO PARCELS B AND C

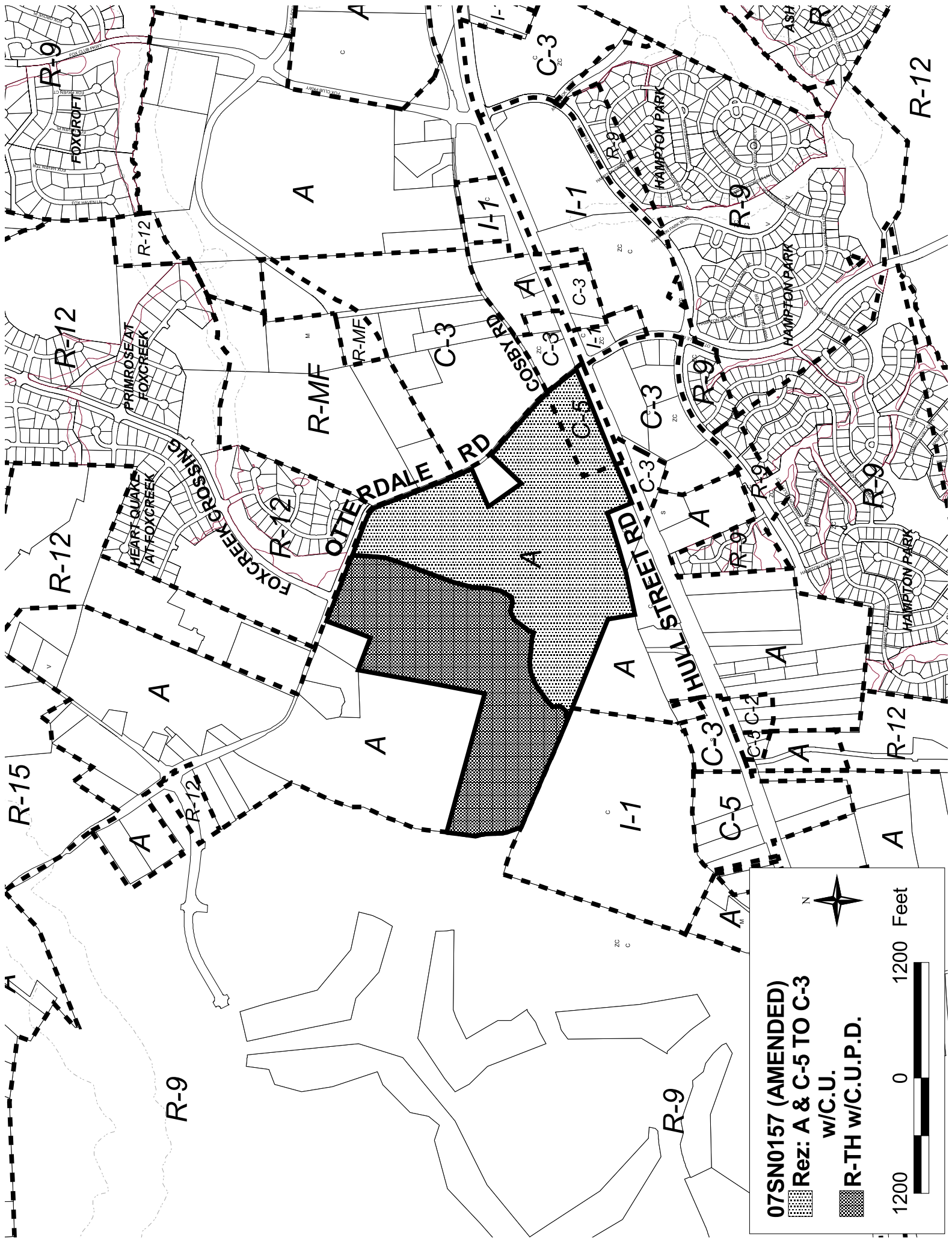
9. Mixing of Uses. Within Parcels B and C respectively there shall be no “mixing” of townhomes and cluster homes. Provided, however, such mixing of townhomes and cluster homes may be permitted on a parcel if a conceptual plan is submitted for review and approval and the conceptual plan addresses land use transitions and compatibility between uses within parcels as well as with adjacent properties. Consideration of land use compatibility and transitions may include, but not necessarily be limited to, the exact location of uses, buffers, and site design. Such conceptual plan shall be approved by either the Planning Commission or the Planning Department, at the election of the developer, and such review shall be subject to appeal in accordance with provisions of the Zoning Ordinance for site plan appeal.

APPLICABLE TO PARCEL C

10. Uses. Uses permitted by right or with restrictions in the Neighborhood Business (C-2) District shall be permitted in Parcel C provided that Parcel C is not developed for residential uses.
11. Development Standards. Development of Parcel C for Neighborhood Business (C-2) uses shall conform to the requirements of the Zoning Ordinance for Neighborhood Business (C-2) Districts within Emerging Growth District Areas.

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07SN0157 (AMENDED)

Rez: A & C-5 TO C-3

w/C.U.

R-TH w/C.U.P.D.



1200 0 1200 Feet

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YOUR VISION ACHIEVED THROUGH OURS.

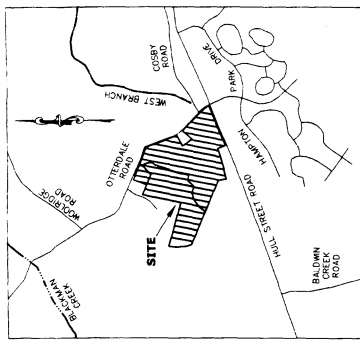
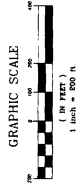
**Site Development**  
1001 Boulder Parkway, Suite 200, Richmond, VA 23225  
TEL: 800.550.5500 FAX: 804.580.1010 WWW.TIMMONSGROUP.COM

**Infrastructure**  
1001 Boulder Parkway, Suite 200, Richmond, VA 23225  
TEL: 800.550.5500 FAX: 804.580.1010 WWW.TIMMONSGROUP.COM

**Technology**  
THIS DRAWING PREPARED AT THE  
TIMMONS GROUP

## COMPILED PLAT SHOWING 3 PARCELS OF LAND LYING ON THE NORTHWEST CORNER OF HULL STREET ROAD AND OTTERDALE ROAD REQUESTING REZONING

MATOACA DISTRICT  
Chesterfield County, VA  
DATE: AUGUST 29, 2006  
SCALE: AS SHOWN  
SHEET 1 OF 1  
J.N.: 67031  
DRAWN BY: D. J. S.  
CHECK BY: M. D. D.

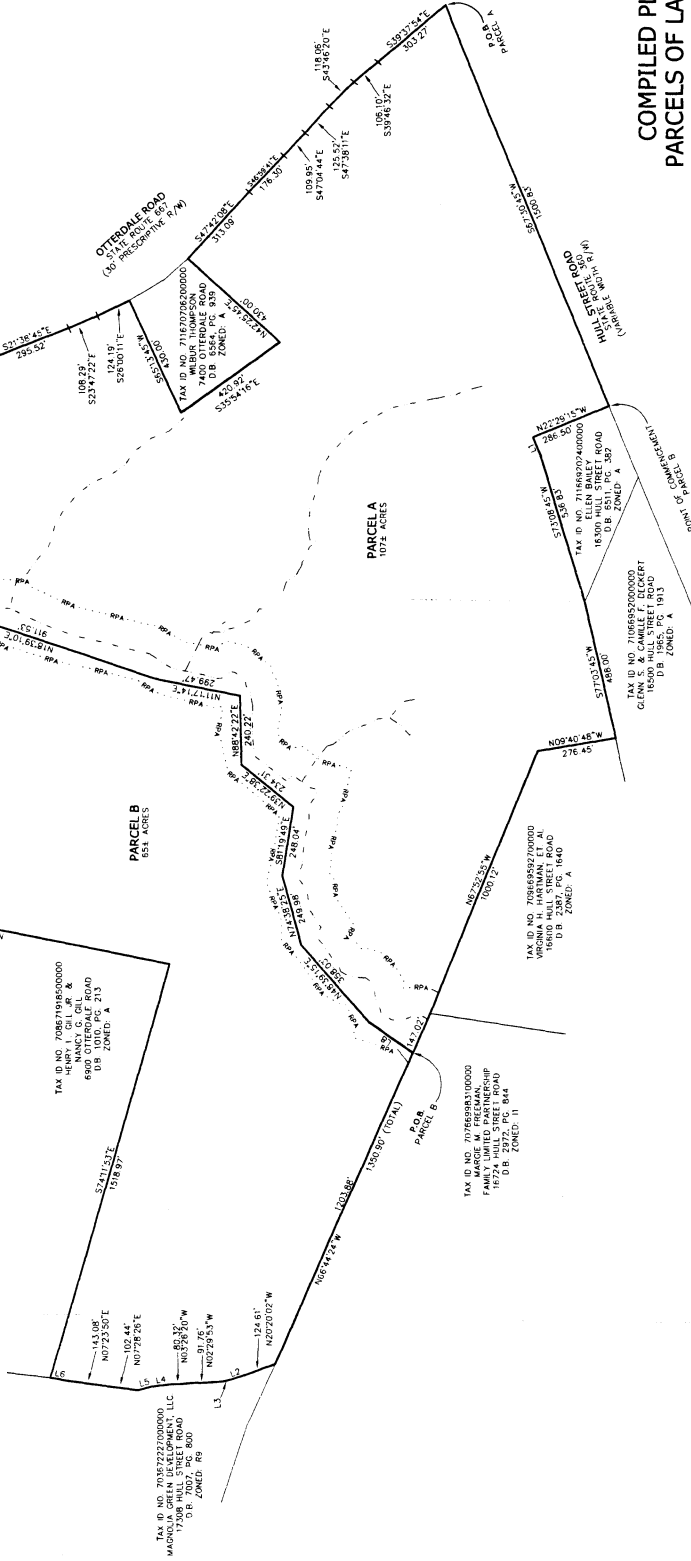


VICINITY MAP  
SCALE: 1"=2000'

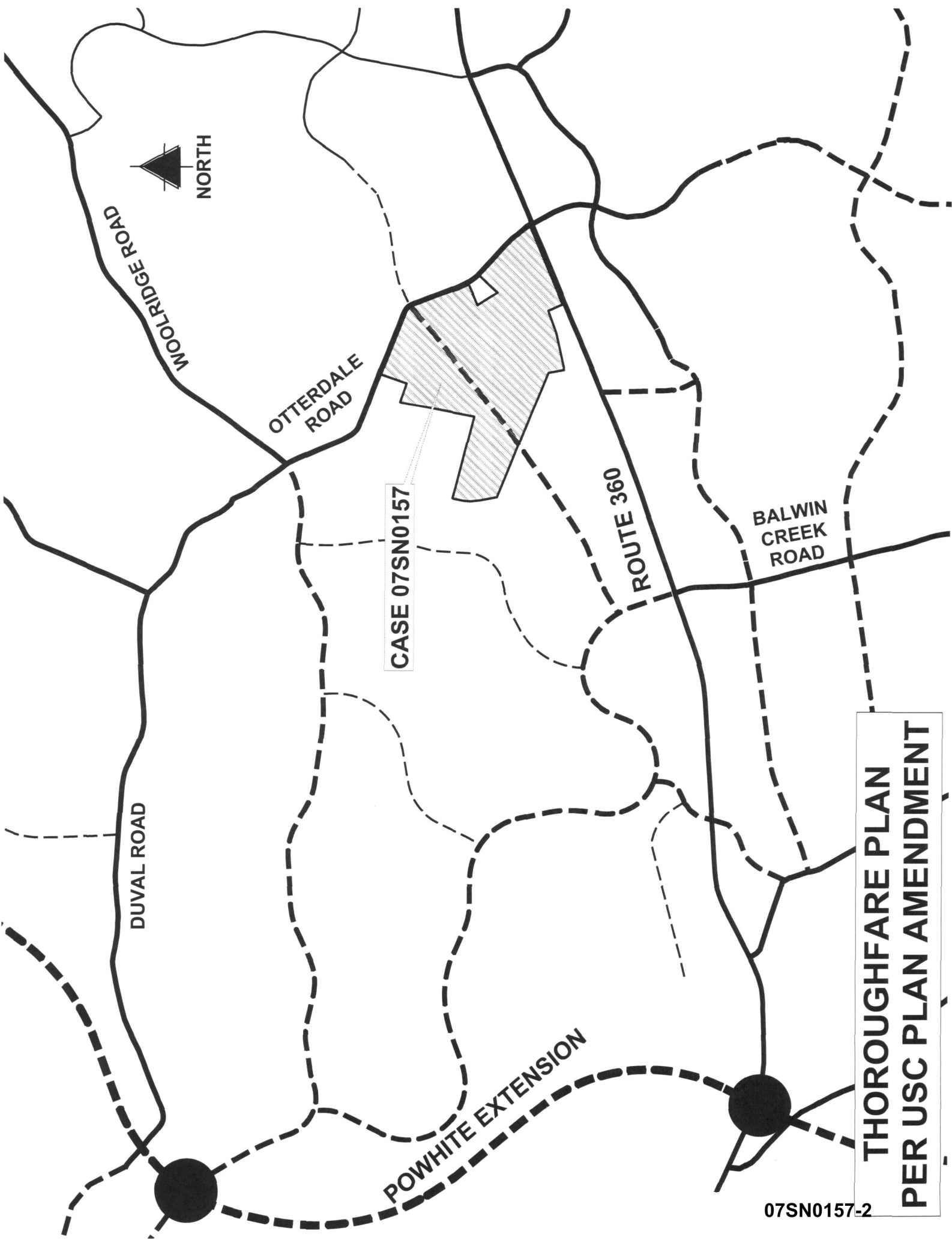


LINE	BEARING	DISTANCE
1	S87°20'32"E	71.46
2	N10°02'07"W	40.73
3	N85°02'35"W	56.47
4	N45°21'52"E	57.70
5	N45°21'52"E	185.29
6	N45°21'52"E	108.49
7	N45°21'52"E	134.80
8	N45°21'52"E	109.49
9	N45°21'52"E	167.27

- NOTES:**
- 1) OWNER: PARCEL A, B AND C  
OTTERDALE VENTURES, LLC  
16724 HULL STREET ROAD  
D.B. 2466, P.C. 259  
ZONED: A AND 259
  - 2) THIS PLAT IS NOT BASED ON A CURRENT SURVEY.
  - 3) THIS PLAT HAS BEEN PREPARED FOR PLANNING PURPOSES AND SHALL NOT BE RELED UPON FOR LAND CONVEYANCE.
  - 4) ADJACENT PARCELS ARE APPROXIMATE COUNTY GIS DATA.
  - 5) EXTERIOR BOUNDARY LINES WERE COMPILED FROM THE 2000 AERIAL PHOTOGRAPHIC SURVEY, ENTITLED "PLAT OF TWO PARCELS OF LAND SITUATED ON THE NORTHWEST CORNER OF HULL STREET ROAD AND OTTERDALE ROAD, DATED AUGUST 19, 1986 AND RECORDED IN DEED BOOK 2466, PAGE 259.



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WOOLRIDGE ROAD

OTTERDALE ROAD

CASE 07SN0157

ROUTE 360

BALWIN CREEK ROAD

DUVAL ROAD

POWHITE EXTENSION

THOROUGHFARE PLAN  
PER USC PLAN AMENDMENT

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~~SECOND~~<sup>1</sup>**THIRD**<sup>2</sup> AMENDED AND RESTATED PROFFERED CONDITIONS  
Case No. 07SN0157

The property owner and applicant in this rezoning case, pursuant to Section 15.2-2298 of the Code of Virginia (1950 as amended) and the Zoning Ordinance of Chesterfield County, for themselves and their successors or assigns, proffer that the property under consideration and labeled Parcels A, B and C as shown on that certain plat entitled “Compiled Plat Showing 3 Parcels of Land Lying on the Northwest Corner of Hull Street Road and Otterdale Road Requesting Rezoning”, dated August 29, 2006, prepared by Timmons Group (the “Property”) will be developed according to the following proffers if, and only if, the rezoning request submitted herewith is granted with only those conditions agreed to by the owner and applicant. In the event this request is denied or approved with conditions not agreed to by the owner and applicant, the proffers shall immediately be null and void and of no further force or effect.

APPLICABLE TO ALL

1. Utilities. The public water and wastewater systems shall be utilized.
2. Timbering. Except for the timbering approved by the Virginia State Department of Forestry for the purpose of removing dead or diseased trees, there shall be no timbering on the Property until a land disturbance permit has been obtained from the Environmental Engineering Department and the approved devices have been installed.
3. Age Restriction. Except as otherwise prohibited by the Virginia Fair Housing Law, the Federal Fair Housing Act, and such other applicable federal, state or local legal requirements, dwelling units designed as age-restricted shall be restricted to “housing for older persons” as defined in the Virginia Fair Housing Law and no persons under 19 years of age shall reside therein. Any lots for age-restricted dwelling units shall be grouped together on a particular portion of the Property and shall not be scattered among other residential units. At the time of recordation of a subdivision plat or the approval of any site plan, the lots shall be noted as age-restricted. Any site plan for age-restricted dwelling units shall also note the restriction. To the extent a subdivision plat is not required, the age restriction shall be recorded as a restrictive covenant prior to site plan approval.
4. Water Storage Tank. The Developer shall dedicate to the County, within one hundred eighty (180) calendar days of a written request by the County or prior to receiving site plan approval, whichever occurs first, a three (3.0) acre site for a future water storage tank. The site shall be in a location acceptable to the Utilities Department, but generally in the southwest corner area of the request site, adjacent to parcels Tax ID 709-669-5927 and Tax ID 710-669-5200, have direct permanent public road access via the internal road network for the development. The Developer shall also dedicate a temporary ingress/egress easement adjacent to the northern property line of parcel Tax ID 710-669-5200, and adjacent to the northern and eastern property line of parcel Tax ID 711-669-2024 or at such other location as is mutually acceptable to the Developer and the County, for use by the County should the County proceed with construction of a water tank prior

to completion of the internal road network for the development. At such time as the permanent access is established, the temporary ingress/egress easement will be vacated.

5. Water Lines. The Developer shall be responsible for the construction of the following water lines, unless said water lines are completed by others prior to issuance of the first building permit for the request site:
  - a. a twenty-four (24) inch water line along Hull Street Road, from Fox Club Parkway to Otterdale Road;
  - b. a thirty (30) inch water line along Hull Street Road, from Otterdale Road to the westernmost extent of the request site's frontage on Hull Street Road; and
  - c. a sixteen (16) inch water line along Otterdale Road, from Hull Street Road to Foxcreek Crossing.
6. On-Site Wastewater Plan. Prior to approval of the first tentative subdivision or site plan for the request site, the Developer shall submit to the Utilities Department a plan for the on-site wastewater collection system for the request site identifying future easements and access points for all properties bordering the southern and western boundaries of the request site.
7. Culverts. Storm water shall be retained on site and/or the capacity of the drainage culverts under Otterdale Road shall be increased (unless provided by others) so that Otterdale Road does not flood in a 10 year storm event with full development.
8. Transportation.<sup>3</sup> **Right of Way Dedications. In conjunction with recordation of the initial subdivision plat, prior to any site plan approval, or within sixty (60) days from the date of a written request by the Transportation Department, whichever occurs first, the following rights-of-way shall be dedicated, free and unrestricted, to and for the benefit of Chesterfield County. The exact location of these rights-of-way shall be approved by the Transportation Department:**<sup>4</sup>
  - a. **Dedicate 90 feet of right-of-way on the north side of Hull Street Road, measured from a revised centerline, based on VDOT (60 MPH) standards with modifications approved by the Transportation Department, of that part of Hull Street Road immediately adjacent to the Property;**<sup>6</sup>
  - b. **Dedicate 45 feet of right-of-way on the west side of Otterdale Road, measured from a revised centerline, based on VDOT(50 MPH) standards with modifications approved by the Transportation Department, of that part of Otterdale Road immediately adjacent to the Property; and**<sup>8</sup>
  - c. **Dedicate a 45 foot wide right-of-way, based on VDOT (50MPH) standards with modifications approved by the Transportation Department, for an east/west collector (the "East/West Parkway") from Otterdale Road at the eastern Property line, through the Property to the western Property Line.**<sup>10</sup>

**9.** <sup>11</sup>**Access. Vehicular access for the Property shall be as described below. Any modification to the accesses described below and the exact location and type of all accesses shall be approved by the Transportation Department.**<sup>12</sup>

**a.** <sup>13</sup>**Direct vehicular access to and from the Property to Hull Street Road shall be limited to:**<sup>14</sup>

**i.** <sup>15</sup>**one (1) full access located at the existing median break west of Otterdale Road approximately 1,600 feet (centerline to centerline); and**<sup>16</sup>

**ii.** <sup>17</sup>**one (1) right in/right out located approximately 800 feet (centerline to centerline) from Otterdale Road;**<sup>18</sup>

**b.** <sup>19</sup>**Direct vehicular access to and from the Property to Otterdale Road shall be limited to:**<sup>20</sup>

**i.** <sup>21</sup>**one (1) full access (East/West Parkway), located approximately 1,930 feet (centerline to centerline) from Hull Street;**<sup>22</sup>

**ii.** <sup>23</sup>**one (1) right in/right out located approximately 960 feet (centerline to centerline) from Hull Street; and**<sup>24</sup>

**iii.** <sup>25</sup>**one (1) full access located at the existing intersection of Otterdale Road and Foxcreek Crossing, such that the access will be constructed as a fourth approach of the existing three-approach intersection.**<sup>26</sup>

**The exact location of these accesses shall be approved by the Transportation Department.**<sup>27</sup>

**10.** <sup>28</sup>**a. Transportation Improvements. To provide an adequate roadway system, and to**<sup>29</sup> <sup>30</sup>**the extent not provided by others, the developer** <sup>31</sup>**Developer** <sup>32</sup>**shall be responsible for the following. The exact design and length of these improvements shall be approved by the Transportation Department. Alternative road improvements, as requested by the Developer and approved by the Transportation Department and that provide acceptable levels of service as determined by the Transportation Department, may be substituted for the road improvements identified in this Proffered Condition**

**i.** <sup>33</sup>**the construction of dual southbound left**<sup>34</sup> <sup>35</sup>**and separate southbound right turn lanes on Otterdale Road at Route 360, based on Transportation Department standards;**<sup>37</sup>

**ii.** <sup>38</sup>

**a.** <sup>39</sup>**the construction of a northbound right turn lane onto Otterdale Road at Woolridge Road, based on Transportation Department standards;**<sup>40</sup>

**iii.** <sup>41</sup>**the construction of northbound left turn and southbound right turn lanes on Otterdale Road at the two site entrances, based on Transportation Department standards;**

- iv. ~~the construction of dual~~<sup>42</sup> **left turn lane on Otterdale Road at the East/West Parkway with 150' of storage and appropriate taper;**<sup>43</sup>
- b. ~~the construction of~~<sup>44</sup> eastbound left turn lanes on Route 360 at the site entrance, based on Transportation Department standards<sup>46</sup> **lane on Route 360 at the main site access with 200' of storage and appropriate taper;**<sup>47</sup>
- c. ~~the construction of a westbound right turn lane on Route 360 at the main site access with 200' of storage and appropriate taper;~~<sup>48</sup><sup>49</sup>
- d. ~~construction of a westbound right turn lane on Route 360 at Otterdale Road with 250' of storage and appropriate taper;~~<sup>50</sup><sup>51</sup>
- e. ~~construction of an eastbound right turn lane on the East/West Parkway at Otterdale Road with 150' of storage and appropriate taper;~~<sup>52</sup><sup>53</sup>
- f. ~~construction of a southbound right turn lane on Otterdale Road at the East/West Parkway with 100' of storage and appropriate taper;~~<sup>54</sup><sup>55</sup>
- g. ~~construction of an eastbound right turn lane on Otterdale Road at the south site access with 100' of storage and appropriate taper;~~<sup>56</sup><sup>57</sup>
- h. ~~the construction of dual southbound left~~<sup>58</sup> ~~turn lanes on Otterdale Road at Route~~<sup>59</sup> **360 with 300' of storage and appropriate taper**<sup>60</sup><sup>61</sup>;
- i. ~~the full cost of traffic signalization, if warranted as determined by the Transportation Department, of the~~<sup>62</sup>
  - i. ~~1.~~<sup>63</sup> Route 360/Otterdale Road intersection;
  - ii. ~~2.~~<sup>64</sup> Route 360 and the **main**<sup>65</sup> site entrance; and
  - ~~3. Otterdale Road and north site entrance.~~<sup>66</sup>
  - iii. **Otterdale Road/East/West Parkway intersection;**<sup>67</sup><sup>68</sup>
- j. ~~construction of a westbound through lane on Route 360 from the western Property line to Otterdale Road;~~<sup>69</sup><sup>70</sup>
- k. ~~dedication, free and unrestricted to and for the benefit of Chesterfield County, of any additional right-of-way (or easements) required to construct these improvements. In the event the developer is unable to acquire the "off-site" right-of-way that is necessary for the road improvements described in this Proffered Condition, the developer may request, in writing, that the County acquire such right-of-way as a public road improvement. All costs associated with the acquisition of the right-of-way shall be borne by the developer. In the event the County chooses not to assist the developer in acquisition of the "off-site" right-of-way, the developer shall be relieved of the obligation to acquire the "off-site"~~<sup>71</sup>

right-of-way and shall provide the road improvements within available right-of-way as determined by the Transportation Department.

**11.** <sup>72</sup>**Phasing. Phasing of development shall be as follows.**<sup>73</sup>

- a.** <sup>74</sup>**prior to issuance of a building permit for more than a cumulative total of 200,000 square feet of office/retail uses or equivalent density, the improvements identified in Proffered Conditions 3.a. through g, and 3.i.(i) and (ii) (if warranted) shall be completed, as determined by the Transportation Department;**<sup>75</sup>
- b.** <sup>76</sup>**prior to issuance of a building permit for more than a cumulative total of 500,000 square feet of office/retail uses or equivalent density, the improvements identified in Proffered Conditions 3.h. and 3.j. shall be completed, as determined by the Transportation Department; and**<sup>77</sup>
- c.** ~~b. Prior to any construction plan approval, a phasing plan for~~<sup>78</sup>**prior to issuance of a building permit for more than a cumulative total of office/retail uses in excess of 500,000 square feet or equivalent density,**<sup>79</sup> the improvements identified in Proffered Condition 8<sup>80</sup>**3.i.(iii) (if warranted)**<sup>81</sup> shall be submitted to and approved<sup>82</sup>**completed, as determined**<sup>83</sup> by the Transportation Department.

APPLICABLE TO PARCEL A

**12.** <sup>9-</sup><sup>84</sup>**Density.** The aggregate density on Parcel A shall not exceed five hundred (500) dwelling units.

**13.** <sup>40-</sup><sup>85</sup>**Schematic Plan.** A schematic plan shall be submitted for Parcel A if a mixture of residential and non-residential uses is proposed.

**14.** <sup>41-</sup><sup>86</sup>**Dwelling Unit.**

- a. Any dwelling units located on Parcel A shall be age-restricted.
- b. Any multifamily dwelling units developed on Parcel A shall be developed in accordance with the requirements of the Zoning Ordinance for Residential Multifamily (R-MF) except as follows:
  - i. The minimum parcel size shall be ten (10) acres. The development's density shall not exceed twenty (20) dwelling units per gross acre.
  - ii. There shall be no limitation on the number of dwelling units permitted on any one floor level of a building.
  - iii. No minimum recreation area is required; however, amenities such as benches, gazebos, fountains, pocket parks and walking trails shall be provided.

- 15.** ~~12.~~<sup>87</sup>Cash Proffers. The applicant, subdivider, or assignee(s) shall pay the following to the County of Chesterfield, prior to the issuance of a building permit, for infrastructure improvements within the service district for the Property, \$10,269.00 per dwelling unit, if paid prior to July 1, 2007, or the amount approved by the Board of Supervisors, not to exceed \$10,269.00 per dwelling unit as adjusted upward by any increase in the Marshall and Swift Building Cost Index between July 1, 2006 and July 1 of the fiscal year in which the payment is made if paid after June 30, 2007. At the time of payment, the \$10,269.00 will be allocated pro-rata among the facility costs as follows: \$602.00 for parks and recreation, \$348.00 for library facilities, \$8,915 for roads, and \$404 for fire stations. Payments in excess of \$10,269.00 shall be prorated as set forth above.

If, upon the mutual agreement of the Transportation Department and the developer, the developer provides road improvements (the "Improvements"), other than those road improvements identified in Proffered Condition 8, then the transportation component in this Proffered Condition shall be reduced by an amount not to exceed the cost to construct the Improvements as determined by the Transportation Department. Thereafter, the developer shall pay the balance of the transportation component as set forth in this Proffered Condition. For the purposes of this Proffered Condition, the costs, as approved by the Transportation Department, shall include, but not be limited to, the cost of right-of-way acquisition, engineering costs, costs of relocating utilities and actual costs of construction (including labor, materials, and overhead) ("Work"). Before any Work is performed, the applicant shall receive prior written approval by the Transportation Department for any credit.

Cash proffer payments shall be spent for the purposes proffered or as otherwise permitted by law.

Should Chesterfield County impose impact fees at any time during the life of the development that are applicable to the property, the amount paid in cash proffers shall be in lieu of or credited toward, but not in addition to, any impact fees, in a manner as determined by the county.

#### APPLICABLE TO PARCELS B AND C

- 16.** ~~13.~~<sup>88</sup>Master Plan. The Textual Statement dated June 15, 2007, shall be the Master Plan.
- 17.** ~~14.~~<sup>89</sup>Public Roads. All roads that accommodate general traffic circulation through the residential development, as determined by the Transportation Department, shall be designed and constructed to VDOT standards and taken into the State System.
- 18.** ~~15.~~<sup>90</sup>Overall Density. The aggregate density on the Property developed for residential purposes shall not exceed two (2) units per gross acre.
- 19.** ~~16.~~<sup>91</sup>Cash Proffers. The applicant, subdivider, or assignee(s) shall pay the following to the County of Chesterfield, prior to the issuance of a building permit, for infrastructure improvements within the service district for the Property:

- a. \$15,600 per dwelling unit, if paid prior to July 1, 2007; or the amount approved by the Board of Supervisors not to exceed \$15,600 per dwelling unit adjusted upward by any increase in the Marshall and Swift Building Cost Index between July 1, 2006 and July 1 of the fiscal year in which the payment is made if paid after June 30, 2007.
- b. Provided, however, that if any building permits issued on the property are for senior housing as defined in the proffer on age-restriction, the applicant, sub-divider, or assignee(s) shall pay, \$10,269.00 per dwelling unit if paid prior to July 1, 2007, or the amount approved by the Board of Supervisors, not to exceed \$10,269.00 per dwelling unit as adjusted upward by any increase in the Marshall and Swift Building Cost Index between July 1, 2006 and July 1 of the fiscal year in which the payment is made if paid after June 30, 2007. At the time of payment, the \$10,269.00 will be allocated pro-rata among the facility costs as follows: \$602.00 for parks and recreation, \$348.00 for library facilities, \$8,915.00 for roads, and \$404 for fire stations. Payments in excess of \$10,269.00 shall be prorated as set forth above.
- c. If, upon the mutual agreement of the Transportation Department and the developer, the developer provides the Improvements, other than those road improvements identified in Proffered Condition 8, then the transportation component in this Proffered Condition shall be reduced by an amount not to exceed the cost to construct the Improvements as determined by the Transportation Department. Thereafter, the developer shall pay the balance of the transportation component as set forth in this Proffered Condition. For the purposes of this Proffered Condition, the costs, as approved by the Transportation Department, shall include, but not be limited to, the cost of the Work. Before any Work is performed, the applicant shall receive prior written approval by the Transportation Department for any credit.

Cash proffer payments shall be spent for the purposes proffered or as otherwise permitted by law.

Should Chesterfield County impose impact fees at any time during the life of the development that are applicable to the property, the amount paid in cash proffers shall be in lieu of or credited toward, but not in addition to, any impact fees, in a manner as determined by the county.

OTTERDALE VENUTRE, LLC,  
a Virginia limited liability company

By: \_\_\_\_\_  
James W.<sup>92</sup> Penny G.<sup>93</sup> Theobald<sup>94</sup> Koch<sup>95</sup>,  
Attorney-in-Fact  
Date: ~~June 15,~~<sup>96</sup> September 5,<sup>97</sup> 2007